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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/562,855

02/02/2006

Dirk Cnockaert

016782-0344

6433

22428 7590 11/03/2009
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EXAMINER

BERMAN, JASON

ART UNIT

PAPER NUMBER

1795

MAIL DATE

DELIVERY MODE

11/03/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	Application No. 10/562,855	Applicant(s) CNOCKAERT ET AL.	
	Examiner Jason M. Berman	Art Unit 1795	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 09 October 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: _____.
- Claim(s) objected to: _____.
- Claim(s) rejected: _____.
- Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Nam X Nguyen/
Supervisory Patent Examiner, Art Unit 1753

Continuation of 11. does NOT place the application in condition for allowance because: Applicant argues that neither Dicker nor Hartig discloses a bearing system that supports the the target tube body and is interior to the target tube. Dickey at figure 4 illustrates target tube 140 which contains plugs 162 and 160 within the tube. Dickey at col 8 lines 40-45 discloses that the bearings 178 is within the plugs. Although Dickey states that the bearings are for tube 130 (an interior tube) rather than the target tube 140, Dickey at figure 4 illustrates that the interior tube 130 is in contact with outertube 140 through seals (160) and tube 128. Thus any support for interior tube 130 (bearings 178) is indirectly support for the outer target tube.

Applicant further argues that neither Dickey nor Hartig teach or suggest the rotatable coolant seal within the definition of a rotatable contained within the instant specification. It should be noted that the specification contains the intended meanings of "rotatable gas-to-coolant" and "rotatable gas-to-vacuum" seals while the instant claims contains the term "rotatable vacuum" seal. Even reading the meaning of this term in view of the specification, MPEP 2111.01 states that "particular embodiment appearing in the written description may not be read into a claim when the claim language is broader than the embodiment" and that terms are given their plain meaning unless this is inconsistent with the specification. Here the vacuum seal of Dickey rotates with both the inner and outer tubes. No indication is given in the specification that the vacuum seal must allow for different rotational speeds. The broadest reasonable interpretation of both the claim language and language of the specification would give a meaning to "rotatable" including allowing both tubes to rotate together, as the seal of Dickey allows. Additionally, this seal of Dickey is within the outer target tube (figure 4).

Applicant further argues that the cited art does not suggest the claim limitations of claim 25. As stated in the previous office action, it would have been obvious to one of ordinary skill in the art at the time of the invention to place drive means within the tube to reduce the footprint of the sputtering device.

Applicant argues that Stuart does not suggest the limitations of claims 15 and 24 because the apparatus of Stuart is not a rotatable target tube. Even though Stuart is not relied upon for its disclosure of a rotatable target, applicant points out that Stuart discloses details of the operation of its device in col 3 lines 17-25. Stuart appears silent as to a rotational or static target, but however refers to another patent within this selection for further details of operation: U.S. 3,878,085, J. F. Corbani, which refer to cylindrical rotatable target tubes.